

# SUPREME COURT OF ARKANSAS

No. 08-654

ROBERT MEYER d/b/a MEYER  
EXCAVATORS CONTRACTORS

APPELLANT,

VS.

CDI CONTRACTORS, LLC

APPELLEE,

**Opinion Delivered** May 21, 2009

AN APPEAL FROM THE PULASKI  
COUNTY CIRCUIT COURT, NO.  
CV02-6804, HONORABLE JAY  
MOODY, CIRCUIT JUDGE

AFFIRMED FOR  
NONCOMPLIANCE WITH ARK.  
SUP. CT. R. 4-2

## PER CURIAM

In a per curiam opinion dated March 5, 2009, we declined to address the merits of the appeal in this case because of appellant Meyer's briefing deficiencies, stating as follows:

Meyer failed to abstract depositions that provided a substantial amount of evidence to support CDI's motion for summary judgment. Further, on July 6, 2005, Meyer filed a response to CDI's motion for summary judgment that stated: "[Meyer] has controverted the facts alleged by [CDI] as detailed in [Meyer's] Brief in Support of this Response. [Meyer] incorporates by reference his Brief in Support of *this* Response." (Emphasis added). CDI's reply brief indicates that Meyer filed his brief in support of his July 6, 2005 response, *but it is not included in the addendum or the record*. Thus, the record is incomplete.

*Meyer v. CDI Contractors, LLC.*, \_\_\_ Ark. \_\_\_, \_\_\_, \_\_\_ S.W.3d \_\_\_ (Mar. 5, 2009) (second emphasis added).

Under Ark. Sup. Ct. R. 4-2 and Ark. R. App. P.– Civ. 6(c), this court ordered Meyer "to file a substituted abstract, *addendum*, and brief, and to file a certified, supplemental record that includes the omitted brief in support within fifteen days from the date of entry of this order." *Id.* at \_\_\_, \_\_\_ S.W.3d at \_\_\_ (emphasis added). Further, we stated that if Meyer

failed to comply with the order “within the prescribed time, the judgment appealed from may be affirmed for noncompliance with Rule 4-2.” *Id.* at \_\_\_\_, \_\_\_\_, S.W.3d at \_\_\_\_.

In response, Meyer submitted a substituted abstract, brief, and addendum that includes abstracts of the depositions. He also submitted a supplemental record with the missing brief in support (“Brief in Support of Plaintiff’s Response to CDI’s Second Motion for Summary Judgment”). However, Meyer again failed to include the brief in support in the substituted addendum.

This case was decided by the trial court on a motion for summary judgment. The burden was on appellant to provide us a record, abstract, addendum, and brief that allows this court to understand and address the issues presented to us. After we ordered rebriefing in this case — with directions — Meyer failed to comply with our order and our briefing rules under Ark. Sup. Ct. R. 4-2. Accordingly, we affirm the trial court's grant of summary judgment.

Affirmed for noncompliance with Rule 4-2.